

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DARRELL NEWTON,)	
)	
Petitioner,)	
)	
v.)	No. 1:17-cr-00073-JAW-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

**ORDER AFFIRMING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

On August 10, 2020, Darrell Newton moved to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. *Mot. Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody* (ECF No. 1010).¹ On August 25, 2020, the Magistrate Judge ordered the United States (Government) to file an answer. *Order to Answer* (ECF No. 1011). On September 28, 2020, Mr. Newton moved to correct his claim for relief and filed an amended petition. *Mot. to Amend 28 U.S.C. § 2255 Pet.* (ECF No. 1035); *id.*, Attach. 1, *Mot. Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody*. On November 6, 2020, the Magistrate Judge granted Mr. Newton's motion to amend. *Order on Mots. to Amend Mot. to Vacate, Set Aside or Correct Sentence (2255)* (ECF No. 1045).

On November 24, 2020, the Government responded to Mr. Newton's habeas

¹ The docket in this case indicates that Mr. Newton's motion was not filed until August 19, 2020. However, the prison mailbox rule controls the date of filing of incarcerated individuals' filings under 28 U.S.C. § 2255. See *Morales-Rivera v. United States*, 184 F.3d 109, 109-10 (1st Cir. 1999) (finding the prison mailbox rule applies to motions under 28 U.S.C. § 2255). Mr. Newton dated his motion August 10, 2020 *Def.'s Mot.* at 14. Therefore, the Court adopts August 10, 2020 as the date of filing.

petition and moved for summary dismissal. *Gov't's Resp. to Pet'r's Mot. Pursuant to 28 U.S.C. § 2255 and Mot. for Summ. Dismissal* (ECF No. 1049). On February 4, 2021, Mr. Newton filed his reply brief. *Pet'r's Reply Mem. of Points and Authorities in Supp. of 28 U.S.C. § 2255 Collateral Review Relief and Federal Rules of Civil Procedure, Rules Governing 28 U.S.C. § 2255 Proceedings* (ECF No. 1071).²

On March 25, 2021, the Magistrate Judge submitted his Recommended Decision. *Recommended Decision on 28 U.S.C. § 2255 Mot.* (ECF No. 1080). After analyzing the arguments presented by Mr. Newton and the Government, the Magistrate Judge recommended against an evidentiary hearing and in favor denying Mr. Newton's motion. *Id.* at 12. The Magistrate Judge further recommended denying a certificate of appealability under Rule 11 of the Rules Governing Section 2255 Cases. *Id.* Neither Mr. Newton nor the Government objected to the Recommended Decision.

The Court reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; the Court has made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and the Court concurs with the recommendations of the United States Magistrate Judge in full, for the reasons set forth in his Recommended Decision and

² On November 30, 2020, Mr. Newton moved to hold his habeas proceedings in abeyance due to his pending transfer to another Bureau of Prisons (BOP) facility. *Pet'r's Mot. to Hold Proceedings in Abeyance While in Transit* (ECF No. 1050). On January 5, 2021, the Magistrate Judge granted Mr. Newton's motion and stayed the habeas proceedings pending further order. *Order on Mot. to Stay* (ECF No. 1059). On January 11, 2021, Mr. Newton informed the Magistrate Judge he had arrived at his new BOP facility and requested a sixty-day extension of time to file his reply brief. *Mot. for Extension of Time* (ECF No. 1060). On January 14, 2021, the Magistrate Judge granted Mr. Newton's motion and permitted him to file by February 25, 2021. *Order* (ECF No. 1064).

determines that no further proceedings are necessary.

1. The Court AFFIRMS the Recommended Decision of the Magistrate Judge (ECF No. 1080).
2. The Court DENIES Darrell Newton's Motions Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF Nos. 1010, 1035-1).
3. The Court DENIES a certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 Cases.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 30th day of April, 2021